

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Leping Huang

Title: BLUETOOTH PERSONAL AREA
NETWORK ROUTING PROTOCOL
OPTIMIZATION USING
CONNECTIVITY METRIC

Appl. No.: 10/606,437

Filing Date: 6/25/2003

Patent No.: 7,706,282

Grant Date: 4/27/2010

Examiner: Christine Y. Ng

Art Unit: 2416

Confirmation 6335
Number:

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR
PATENT UNDER 37 C.F.R. §1.705(d)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants have calculated PTA for the captioned patent and have determined that the patent is entitled to 166 days of Patent Term Adjustment, as shown on the attached sheet, which shows the relevant delays under 37 CFR §§1.702, 1.703 and 1.704:

(a) Total PTO delay:	431 days
(b) Total Applicant delay:	265 days
Final PTA Determination under 37 CFR §1.703(f): 166 days	

In accordance with 1.705(b)(2)(ii), the relevant dates as specified in §§1.703(a) through (e) for which an adjustment is sought and the adjustment as specified in § 1.703(f) to which the patent is entitled are clearly represented in the attached PTA Calculation.

The relevant dates where the applicant is not in agreement with the PTO's determination are discussed in more detail below.

The Patent Office determined that the patent was entitled to 97 days of PTA. Applicants believe that this PTA determination was made in accordance with the "Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. §154(b)(2)(A)" published at 69 Fed. Reg. 34238 (Jun. 21, 2004). Under that interpretation of the PTA statute, any PTO delay under 35 U.S.C. § 154(b)(1)(A) is deemed to overlap with any 3-year maximum pendency delay under 35 U.S.C. § 154(b)(1)(B), and so, as a practical effect, PTA may be awarded under §154(b)(1)(A) or §154(b)(1)(B), but not both.

On January 7, 2010, the U.S. Court of Appeals for the Federal Circuit affirmed the September 30, 2008 decision of the United States District Court for the District of Columbia finding that the U.S. Patent and Trademark Office's interpretation of the PTA statute is incorrect. *Wyeth v. Kappos*, No. 2009-1120 (Jan. 7, 2010). The Federal Circuit determined that "[b]efore the three-year mark, no 'overlap' can transpire between the A delay and the B delay," and that "[i]f an A delay occurs on one day and a B delay occurs on a different day, those two days do not 'overlap' under section 154 (b)(2)."

In accordance with §1.705(b)(2)(iv)(A), the circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704 are clearly represented in the attached PTA Calculation.

Applicants therefore respectfully request that the patent be accorded 166 days PTA.

Fees in the amount of \$200.00 set forth in 37 C.F.R. § 1.18(e) to cover the fee for this request are being paid by credit card via EFS-Web.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. § 1.705, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

However, because this PTA error is due to a Patent Office error in interpreting and applying the PTA statute, a refund of the fee is respectfully requested.

Respectfully submitted,

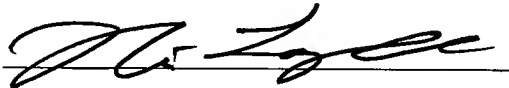
Date June 21, 2010

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By 

Nicholas M. Lagerwall

Attorney for Applicant

Registration No. 63,272

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SELECT CASE

Patent Term Adjustment Calculation System

Add a new event to this case

Docket Number: 088245-0113

Application Number: 10/606437

Patent Number: N/A

	Event Description	Event Date	Days from Filing	PTO Days	Applicant Days
Edit Delete	Application Filing Date	06/25/2003	0		
Edit Delete	IDS NOT falling under 1.704(c)(6), (8) or (10) filed at PTO	08/12/2003	48		
	14 month From Application date	08/25/2004	427		
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	Non-Final Office Action + 3 months	01/04/2005	559		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	04/07/2005	652		93
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	Non-Final Office Action + 3 months	09/29/2005	827		
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	Non-Final Office Action + 3 months	05/23/2006	1,063		
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	3 Year Period Starts	06/25/2006	1,096		
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Edit Delete	Final Office Action	11/09/2006	1,233		
Edit Delete	Final Office Action Response Received at PTO	01/16/2007	1,301		
	Final Office Action + 3 months	02/09/2007	1,325		
Edit Delete	Advisory Action	02/20/2007	1,336		
Edit Delete	Notice of Appeal Received at PTO	05/10/2007	1,415		90
	3 Year Period Stopped	07/17/2007	1,483	387	
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	Issue Fee Paid + 4 months	04/23/2010	2,494	
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			Totals:	431
			PTA:	166
				265

Created and maintained by

FOLEY & LARDNER LLP

Version: 3.02.05

LOGIN: Linda Anderson

IP: 10.24.4.21

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